

LAW ENFORCEMENT



HANDBOOK ON LIQUOR LAW ENFORCEMENT

2009 EDITION

DISTRIBUTED BY:
**MISSOURI STATE
ALCOHOL & TOBACCO CONTROL**
IN PARTNERSHIP WITH:
MoDOT – HIGHWAY SAFETY DIVISION

INTRODUCTION

The Division of Alcohol and Tobacco Control (ATC) seeks the assistance of every law enforcement officer in the State of Missouri in the enforcement of Liquor Control Law. This handbook has been prepared by ATC to assist peace officers and prosecuting attorneys in the performance of their duties.

To reduce the effects of alcohol related crimes in our State caused by irresponsible retail practices, the Supervisor of ATC may take disciplinary action against the retailer's liquor license. The Supervisor of Alcohol and Tobacco Control is authorized by statute to suspend, revoke and/or fine liquor licenses for violations of the liquor laws. In order to take action against licenses, the Supervisor must have competent, material evidence of violations. Your assistance in obtaining evidence and reporting violations to the division will help eliminate some of the future enforcement problems.

ATC has Agents and Special Agents that specialize in: conducting undercover investigations, training law enforcement officers, training alcohol servers, conducting compliance checks, coordinating targeted alcohol saturations and many other alcohol specific enforcement roles. ATC takes pride in assisting other Law Enforcement Agencies with alcohol related issues. If you have any questions, concerns or need ATC's assistance, please contact your local ATC office or ATC Headquarters at

573-751-2333
www.atc.dps.mo.gov

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DISCIPLINARY PROCEDURES

The Supervisor of Alcohol and Tobacco Control is granted the exclusive power to deny, suspend or revoke any license for good cause. In order to facilitate this process the following procedures have been instituted.

- A. A report detailing the specific allegations of a violation of the statutes or regulations is submitted to the State Supervisor for review. After reviewing the report the State Supervisor schedules an informal conference with the licensee. The purpose of the conference is to discuss in detail the allegations and determine whether any extenuating circumstances or valid reason exists for not disciplining the license. After taking the case under advisement, the Supervisor then issues a written order either, dismissing the charges, issuing a written warning, issuing a fine, suspending the license, or revoking the license. The licensee may either accept this determination or appeal to the Administrative Hearing Commission for a hearing.
- B. The Administrative Hearing Commission hearing is a trial type proceeding conducted before an Administrative Law Judge. Each side is given an opportunity to present witness testimony and any evidence relevant to the alleged violation. The Administrative Hearing Commission then issues a ruling either upholding the Supervisor's disciplinary action or issuing an order finding that there were insufficient grounds to discipline the license. If the Administrative Hearing Commission finds there was cause to discipline the license the case is remanded to the Supervisor for a disciplinary hearing. Once again the licensee may either accept this determination or appeal to the Circuit Court of the county in which they are located.

DISCIPLINARY PROCEDURES CONTINUED ON NEXT PAGE

- C. Circuit Court—at this level the court makes a decision either upholding or reversing the decision of the Administrative Hearing Commission.

NOTE, each disciplinary action of the Supervisor must be sufficient to withstand appellate review. As a result it is extremely important that the evidence and testimony in these cases be collected and prepared with that eventuality in mind.

Due to the need for proof, this booklet has been prepared to assist law enforcement officers in familiarizing themselves with the most frequently encountered liquor law violations and the elements necessary to prepare a prosecutable case.

DIVISION OF ALCOHOL AND TOBACCO CONTROL DISTRICT OFFICES

District I—Kansas City, MO

615 East 13th Street Room 506

Kansas City, MO 64106

(816)889-2574

Fax: (816)889-3149

District Supervisor: Joe Hodgin

Joe.Hodgin@dps.mo.gov

Counties Served:

Andrew
Atchison
Barry
Bates
Benton
Buchanan
Caldwell
Cass
Cedar
Christian
Clay
Clinton
Dade
Dallas
Daviess
DeKalb
Douglass
Gentry
Greene
Harrison
Henry

Hickory
Holt
Jackson
Jasper
Johnson
Lafayette
Lawrence
McDonald
Newton
Nodaway
Ozark
Pettis
Platte
Polk
Ray
St. Clair
Stone
Taney
Vernon
Webster
Worth

District II—Jefferson City, MO

301 W. High St., Room 870

Jefferson City, MO 65101

(573)751-2964

Fax: (573)751-4369

Central Office: (573)751-2333

Chief of Enforcement/District Supervisor: Steve Shimmens

Steve.Shimmens@dps.mo.gov

Counties Served:

Adair	Macon
Audrain	Maries
Boone	Mercer
Callaway	Miller
Camden	Moniteau
Carroll	Montgomery
Chariton	Morgan
Cole	Oregon
Cooper	Osage
Crawford	Phelps
Dent	Pulaski
Franklin	Putnam
Gasconade	Randolph
Grundy	Saline
Howard	Schyler
Howell	Shannon
Laclede	Sullivan
Linn	Texas
Livingston	Warren
	Wright

District III—St. Louis, MO

Wainwright Bldg.
111 N. 7th Room 170
St. Louis, MO 63101-2134
(314)340-6835
Fax: 314)340-7499

District Supervisor: Rick Weiser

Rick.Weiser@dps.mo.gov

Counties Served:

Bollinger
Butler
Cape Girardeau
Carter
Clark
Dunklin
Iron
Jefferson
Knox
Lewis
Lincoln
Madison
Marion
Mississippi
Monroe
New Madrid
Pemiscot

Perry
Pike
Ralls
Reynolds
Ripley
Scotland
Scott
Shelby
St. Charles
St. Francois
St. Louis City
St. Louis County
Ste. Genevieve
Stoddard
Washington
Wayne

DEFINITIONS

CHAPTER 311, REVISED STATUTES OF MISSOURI LIQUOR CONTROL LAW

311.020. Definition of Intoxicating Liquor.-

The term "intoxicating liquor" as used in this chapter, shall mean and include alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent by volume. All beverages having an alcoholic content of less than one-half of one percent by volume shall be exempt from the provisions of this chapter, but subject to inspection as provided by sections 196.365 to 196.445, RSMo. (RSMo 1939 § 4894, A.L. 1990 H.B. 1180)

311.030. Definition of Person.-

The term "person" as used in this chapter shall mean and include any individual, association, joint stock company, syndicate, co-partnership, corporation, receiver, trustee, conservator, or other officer appointed by any state or federal court. (RSMo 1939 § 4934)

311.040. Application of law.-

The provisions of this law shall be in force in and apply to every incorporated city, town or village in this state, whether same be organized under the general law relating to cities, towns and villages, or by special charter under the state constitution, any ordinance or charter provision of any city, town or village to the contrary notwithstanding. (RSMo 1939 § 4908)

311.050. License required.-

It shall be unlawful for any person, firm, partnership or corporation to manufacture, sell or expose for sale in this state intoxicating liquor, as defined in section 311.020, in any quantity, without taking out a license. (RSMo 1939 § 4985)

DEFINITIONS CONTINUED ON NEXT PAGE

311.100. Sale by drink defined. -

The sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty milliliters shall be deemed "sale by the drink", and may be made only by a holder of a retail liquor dealer's license and when so made, the container in every case shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served.

(RSMo 1939 § 4915, A.L. 1980 S.B. 511, A.L. 1984 S.B. 441)

QUALIFICATIONS FOR A LICENSE / **FINANCIAL INTEREST**

311.060. Qualifications for Licenses—Resident Corporation and Financial Interest Defined.-

1. No person shall be granted a license hereunder unless such person is of good moral character and a qualified legal voter and a taxpaying citizen of the county, town, city or village, nor shall any corporation be granted a license hereunder unless the managing officer of such corporation is of good moral character and a qualified legal voter and taxpaying citizen of the county, town, city or village; and no person shall be granted a license or permit hereunder whose license as such dealer has been revoked, or who has been convicted, since the ratification of the twenty-first amendment to the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor, or who employs in his business as such dealer, any person whose license has been revoked or who has been convicted of violating such law since the date aforesaid; provided, that nothing in this section contained shall prevent the issuance of licenses to nonresidents of Missouri or foreign corporations for the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquors to, by or through a duly licensed wholesaler, within this state.

2. (1) No person, partnership or corporation shall be qualified for a license under this law if such person, any member of such partnership, or such corporation, or any officer, director, or any stockholder owning, legally or beneficially, directly or indirectly, ten percent or more of the stock of such corporation, or other financial interest therein, or ten percent or more of the interest in the business for which the person, partnership or corporation is licensed, or any person employed in the business licensed under this law shall have had a license revoked under this law or shall have been convicted of violating the provisions of any law applicable to the manufacture or sale of intoxicating liquor since the ratification of the twenty-first amendment to the Constitution of the United States, or shall not be a person of good moral character.

***QUALIFICATIONS/FINANCIAL INTEREST CONTINUED ON
NEXT PAGE***

(2) No license issued under this chapter, shall be denied, suspended, revoked or otherwise affected based solely on the fact that an employee of the licensee has been convicted of a felony unrelated to the manufacture or sale of intoxicating liquor so long as any such employee does not directly participate in retail sales of intoxicating liquor. Each employer shall report the identity of any employee convicted of a felony to the division of liquor control. The division of liquor control shall promulgate rules to enforce the provisions of this subdivision.

SALE BY A MINOR (Employees under 21)

I. General Rule

311.300. Persons Eighteen Years of Age or Older May Sell or Handle Liquor or Beer, When.-

1. Except as provided in subsections 2, 3 and 4 of this section, no person under the age of twenty-one years shall sell or assist in the sale or dispensing of intoxicating liquor or nonintoxicating beer.

Elements

Steps to Prove Elements

- | | |
|--|--|
| 1. Identity of licensee, employee or any person selling, giving or otherwise | a. Officer observation (make undercover buy)
b. Examine credentials
c. Secure statement of licensee
d. Secure statement of witness
e. Secure verification of parent, guardian, or relative as to age of minor |
| 2. Intoxicating liquor or nonintoxicating Beer | a. Seize drinks as evidence
b. Determine what was ordered, (by observation, statement or admission)
c. Determine what was served, (by observation, statement or admission)
d. Submit for chemical analysis
e. If sealed check label for statement of alcoholic content |

II. Exceptions

With special permission minors between the ages of 18 and 21 may sell or handle liquor under two limited conditions.

- A) Grocery Store/Convenience Store and Similar Establishments

SALE BY MINOR CONTINUED ON NEXT PAGE

311.300(2)-- In any place of business licensed in accordance with section 311.200, persons at least eighteen years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register and accept payment for, and sack for carryout, intoxicating liquor or nonintoxicating beer. Delivery of intoxicating liquor or nonintoxicating beer away from the licensed business premises cannot be performed by anyone under the age of twenty-one years.

*NOTE: Any licensee who employs any person under the age of twenty-one years, as authorized by this subsection, shall, when the establishment is purely a liquor store, have an employee twenty-one years of age or older on the licensed premises during all hours of operation.

B) Restaurant Facilities

311.300(4) -- Persons eighteen years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor or nonintoxicating beer in places of business which sell food for consumption on the premises if at least fifty percent of all sales in those places consists of food; provided that nothing in this section shall authorize persons under twenty-one years of age to mix or serve across the bar intoxicating beverages or nonintoxicating beer.

(RSMo 1939 § 4885, A. 1949 S.B. 1114, A.L. 1969 S.B. 37, A.L. 1971 H.B. 173, A.L. 1976 S.B. 487, H.B. 1367, A.L. 1981 S.B. 128, A.L. 1996 S.B. 933, A.L. 1997 H.B. 63)

SALE/SUPPLY TO MINORS

311.310. Sale to minor-Certain Other Persons, Misdemeanor-Exceptions – (Charge Code = 3303099._)

Any licensee under this chapter, or his employee, who shall sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one years, or to any person intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard, and any person whomsoever except his parent or guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of twenty-one years, or to any intoxicated person or any person appearing to be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of a misdemeanor, except that this section shall not apply to the supplying of intoxicating liquor to a person under the age of twenty-one years for medical purposes only, or to the administering of such intoxicating liquor to any person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor when serving in the capacity as an employee of a licensed establishment.

(L. 1947 V. I p. 373 § 4885a, A.L. 1990 H.B. 1180)

Elements

1. Identity of licensee, employee or any person selling, giving or otherwise supplying
2. Intoxicating liquor or nonintoxicating beer

Steps to Prove Elements

- a. Officer observation
 - b. Secure admission by seller
 - c. Secure statement by purchaser or consumer
 - d. Secure statements of witnesses
-
- a. Seize drinks as evidence
 - b. Determine what ordered (by observation, statement or admission)
 - c. Determine what served, (by observation, statement or admission)
 - d. Submit for chemical analysis

SALE TO A MINOR CONTINUED ON NEXT PAGE

3. To any person under the age of 21
 - a. Officer observation years of appearance
 - b. Examine credentials
 - c. Secure statement of buyer or receiver
 - d. Secure admission of seller or furnisher
 - e. Secure verification of parent, guardian or relative

Typically there are three situations in which a police officer will encounter the above noted violation.

I. Car Stop

Often an officer will stop a vehicle and subsequently discover that the occupants are minors in possession of liquor. In this situation the officer should take the following steps to ensure a strong prosecutable case.

A) From Minor

- 1) Obtain statement from minor as to where they purchased the product.
- 2) Transport minor to the location where purchase was made and have them identify the employee who sold to them.
- 3) Obtain complete pedigree information on minor.
 - i) name, address, home phone number
 - ii) physical description
 - iii) date of birth
 - iv) mother's maiden name, father's name and place of birth
- 4) What was the purchase cost.
- 5) Was any identification shown at time of purchase, if so, seize the false identification.
- 6) Has the minor ever purchased at this location before and if so was identification shown on that occasion. If so, note what kind.
- 7) Reason why this particular premise was selected.

B) From Employee

- 1) Obtain full pedigree, name, address, phone number and DOB.
- 2) Obtain admission regarding sale.
- 3) Verify whether or not any identification was shown at the time of purchase and if so what kind.
- 4) Verify whether or not minor has ever purchased at this location before and if so identification was shown at that time.

SALE TO A MINOR CONTINUED ON NEXT PAGE

II. Observation of Sale at Liquor Store

In this situation the officer should obtain the following information.

A) From Minor

- 1) Obtain complete pedigree information on minor.
 - i) name, address, home phone number
 - ii) physical description
 - iii) date of birth
 - iv) mother's maiden name, father's name and place of birth
- 2) What was the purchase cost?
- 3) Was any identification shown at time of purchase, if so, seize the false identification.
- 4) Has the minor ever purchased at this location before and if so was identification shown on that occasion. If so, note what kind.
- 5) Reason why this particular premise was selected.

B) From Employee

- 1) Obtain full pedigree, name, address, phone number and date of birth.
- 2) Obtain admission regarding sale.
- 3) Verify whether or not any identification was shown at the time of purchase and if so what kind.
- 4) Verify whether or not minor has ever purchased at this location before and if so identification was shown at that time.

III. Observation of Sale at Bar/Tavern

In this case it is important that you observe the entire transaction if possible. That being, the minor subject ordering, the waitress/waiter placing the order, the bartender filling the order, the waitress/waiter delivering the drink, and the exchange of money. In addition, you should obtain the following information.

B) From Minor

- 1) Obtain complete pedigree information on minor.
 - i) name, address, home phone number
 - ii) physical description
 - iii) date of birth
 - iv) mother's maiden name, father's name and place of birth
- 2) What was the purchase cost?

SALE TO A MINOR CONTINUED ON NEXT PAGE

- 3) Was any identification shown at time of purchase, if so, seize the false identification.
- 4) Has the minor ever purchased at this location before and if so was identification shown on that occasion. If so, note what kind.
- 5) Reason why this particular premise was selected.

B) From Employee

- 1) Obtain full pedigree, name, address, phone number and date of birth.
- 2) Obtain admission regarding sale.
- 3) Verify whether or not any identification was shown at the time of purchase and if so what kind.
- 4) Verify whether or not minor has ever purchased at this location before and if so identification was shown at that time.

SALE/SUPPLY TO AN INTOXICATED PERSON

311.310 – Sale to Certain Other Person-(Sale to Intoxicated Person)- (Charge Code = 3303099.)

Elements	Steps to Prove Elements
1. Identity of licensee or employee selling, giving or otherwise supplying	<ul style="list-style-type: none">a. Observation of officerb. Secure admission of sellerc. Secure statement by purchaser or consumerd. Secure statement witnesses
2. Intoxicating liquor or nonintoxicating beer	<ul style="list-style-type: none">a. Seize drinks as evidenceb. Determine what ordered (by observation, statement, or admission)c. Determine what served, (by observation, statement, or admission)d. Submit for chemical analysis
3. Evidence of habitual drunkard	<ul style="list-style-type: none">a. Establish that person served was known to the server as one who frequently drinks to excessb. Establish that person served had several arrests for drunkenness
4. Evidence of intoxicated person	<ul style="list-style-type: none">a. The officer must establish that the person receiving the drink was intoxicated prior to his receiving the alcoholic beverageb. Must establish that the server either saw the actions of the person or had the opportunity seeing them

SALE/SUPPLY TO AN INTOXICATED PERSON CONTINUED ON NEXT PAGE

- c. A person is intoxicated when the average person in his presence can plainly determine intoxication by:

Appearance/Conduct/Demeanor

1. Problems with balance-
 - inability to maintain balance
 - stumbling
 - staggering gait
 - bumping into furniture while walking
 - falling against bar or off stool
 - head on bar
2. Ineffective muscular coordination
 - spilling and/or knocking over drinks
 - unable to pick up change
3. Strong smell of alcohol
4. Slurred speech
 - thick tongue
 - uncontrollable voice pitch
 - muttering
5. Bloodshot and/or glassy eyes
 - flushed face
6. Condition of clothes and hair
 - disheveled appearance
 - messy hair
 - unzipped clothing
7. Unusual behavior
 - vomiting
 - profanity
 - hiccups
 - fighting
 - loud, boisterous, obnoxious behavior

HOUSE PARTIES

311.310- Permitting Drinking or Possession by a Minor, penalty- (Open House Parties) - (Charge Code = 3303799.)

2. Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty- one to drink or possess intoxicating liquor is his or her parent or guardian, is guilty of a class B misdemeanor. Any second or subsequent violation of this subsection is a class A misdemeanor.

Elements

1. Identity of owner, occupant, or other person or legal entity
2. Knowingly allows any person(s) under the age of 21
3. To consume intoxicating liquor on such property

Steps to Prove Elements

- a. Observation of officer
- b. Verify ownership of property
- a. Verify age of individual(s) by virtue of driver's license or other legitimate form of identification
- a. Officer observation of minor consuming
- b. Secure statement of owner, occupant, or other person, or legal entity
- c. Secure admission of minor(s) and witness
- d. Seize drink(s) and other alcohol as evidence.
- e. Submit to lab for chemical analysis.

HOUSE PARTIES CONTINUED ON NEXT PAGE

***NOTE:**

3. It shall be a defense to prosecution under this section if:

- (1) The defendant is a licensed retailer, club, drinking establishment, or caterer or holds a temporary permit, or an employee thereof;
- (2) The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was twenty-one or more years of age; and
- (3) To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, Missouri non-driver's identification card, or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was twenty-one years of age and of the legal age for consumption of intoxicating liquor.

(L. 1947 V. I p. 373 § 4885a, A.L. 1990 H.B. 1180, A.L. 2005 H.B. 972 merged with S.B. 37, et al. and S.B. 402, A.L. 2005 1st Ex. Sess. H.B. 2)

POSSESSION BY MINOR

311.325. Purchase, possession by minor, or possession by consumption by minor. a misdemeanor, (Charge Code = 33040__.)

311.325. 1. Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in section 311.020 or who is visibly **in an intoxicated condition** as defined in section 577.001, RSMo, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

2. For purposes of determining violations of any provision of this chapter, or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

MIP CONTINUED ON NEXT PAGE

3. Any person under the age of twenty-one years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition as defined in section 577.001, RSMo, shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this subsection shall be limited to not more than two such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the state department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose. The state department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health and senior services. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. "Full information" is limited to the following:

- (1) The type of test administered and the procedures followed;
- (2) The time of the collection of the blood or breath sample or urine analyzed;
- (3) The numerical results of the test indicating the alcohol content of the blood and breath and urine;
- (4) The type and status of any permit which was held by the person who performed the test;
- (5) If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument.

MIP CONTINUED ON NEXT PAGE

Full information" does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, "full information" does not include information in the possession of the manufacturer of the test instrument.

4. The provisions of this section shall not apply to a student who:

- (1) Is eighteen years of age or older;
- (2) Is enrolled in an accredited college or university and is a student in a culinary course;
- (3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and
- (4) Tastes a beverage under subdivision (3) of this subsection only for instructional purposes during classes that are part of the curriculum of the accredited college or university.

The beverage must at all times remain in the possession and control of an authorized instructor of the college or university, who must be twenty-one years of age or older. Nothing in this subsection may be construed to allow a student under the age of twenty-one to receive any beer, ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum.

(A.L. 2009 H.B. 62, A.L. 1959 H.B. 248 § 1, A.L. 1994 S.B. 693, A.L. 2003 S.B. 298, A.L. 2005 S.B. 402, A.L. 2006 S.B. 725)

MIP CONTINUED ON NEXT PAGE

Elements

1. Any person under the age 21 years

Steps to Prove Elements

- a. In physical possession of intoxicating liquor
- b. Or attempting to purchase or purchases intoxicating liquor
- c. Or who is visibly intoxicated, under the influence of alcohol, a controlled substance, or drug, or any combination thereof.
- d. Or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood
- e. Is guilty of a misdemeanor

FAKE, ALTERED OR BORROWED IDS

311.320-Misrepresentation of age by minor to obtain liquor (Charge Code = 3302299,_)

1. Any person of the age of seventeen years and under the age of twenty-one years who shall represent that he has attained the age of twenty-one years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, except in cases authorized by law, shall upon conviction be deemed guilty of a misdemeanor. Any person under the age of seventeen years who shall represent that he has attained the age of twenty-one years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, except in cases authorized by law, may be considered a delinquent child and may be dealt with in accordance with the provisions of chapter 211, RSMo.

2. In addition to any other penalties established in subsection 1 of this section and established in sections 577.500 to 577.530, RSMo, any person who is less than twenty-one years of age who uses a reproduced, modified or altered chauffeur's license, motor vehicle operator's license, identification card issued by any uniformed service of the United States, passport or identification card established in section 302.181, RSMo, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, shall be guilty of a misdemeanor and shall be subject to a fine of five hundred dollars for each separate offense.

(L. 1947 V. I p. 373 § 4885b, A.L. 1989 H.B. 397, A.L. 1992 H.B. 1316, A.L. 1993 H.B. 63)

Elements

Steps to Prove Elements

- | | |
|---|---|
| 1. Identity of subject | a. Observation of officer |
| 2. Knowingly presents altered identification | a. Verify age of individual by records check thru MULES |
| 3. For the purpose of purchasing, asking for or in any way of receiving intoxicating liquor | a. Officer observation of
b. Secure admission any minor and witness
c. Seize ID and alcohol |

IDS CONTINUED ON NEXT PAGE

311.329. Reproduction or alteration of identification card, penalty. (Charge Code = 4668006.0)

Any person who has in his possession a reproduced, modified or altered motor vehicle driver's license, non-driver's license issued by any uniformed service of the United States, or identification card established in section 302.181, RSMo, or any other such identification card which indicates that the person represented on the card is over twenty-one years of age, is guilty of a class A misdemeanor. (L. 1993 S.B. 180 § 10)

Elements

Steps to Prove Elements

- | | |
|--|---|
| 1. Any person who
Without authorization from the
Department of Revenue | a. Identity of individual |
| 2. Has physical possession of
a reproduced, altered, modified,
or misrepresented | a. Observation of officer
b. Verify authenticity
of ID |
| 3. A chauffer's license, motor vehicle
Operator's license or identification
Card | a. Secure admission from
individual
b. Seize ID as evidence |

GOOD FAITH DEFENSE (for seller)

311.328. Identification, acceptable forms. (Good Faith defense)

1. A valid and unexpired operator's or chauffeur's license issued under the provisions of section 302.177, RSMo, or a valid and unexpired operator's or chauffeur's license issued under the laws of any state or territory of the United States to residents of those states or territories, or a valid and unexpired identification card as provided for under section 302.181, RSMo, or a valid and unexpired identification card issued by any uniformed service of the United States, or a valid and unexpired passport shall be presented by the holder thereof upon request of any agent of the division of alcohol and tobacco control or any licensee or the servant, agent or employee thereof for the purpose of aiding the licensee or the servant, agent or employee to determine whether or not the person is at least twenty-one years of age when such person desires to purchase or consume alcoholic beverages procured from a licensee. Upon such presentation the licensee or the servant, agent or employee thereof shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.

2. Upon proof by the licensee of full compliance with the provisions of this section, no penalty shall be imposed if the supervisor of the division of alcohol and tobacco control or the courts are satisfied that the licensee acted in good faith.

3. Any person who shall, without authorization from the department of revenue, reproduce, alter, modify, or misrepresent any chauffeur's license, motor vehicle operator's license or identification card shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than one thousand dollars, and confinement for not more than one year, or by both such fine and imprisonment. (L. 1965 p. 503 §§ 1 to 5, A.L. 1971 H.B. 365, A.L. 1972 S.B. 462, A.L. 1982 H.B. 986, A.L. 1987 S.B. 230, A.L. 1992 H.B. 1316, A.L. 1993 H.B. 63, A.L. 2003 S.B. 298)

GOOD FAITH CONTINUED ON NEXT PAGE

Elements

Steps to Prove Elements

- | | |
|---|---|
| 1. Identity of subject | a. Observation of officer |
| 2. Knowingly reproduced
altered, modified, or misrepresented | a. Verify age of individual
records check thru MULES |
| 3. A chauffer's license, motor vehicle
Operator's license or ID card | a. Secure admission from
individual
b. Verify authenticity
c. Seize ID as evidence |

KEG REGISTRATION

311.082. Labeling of kegs sold at retail for off-premise consumption, procedures

1. As used in this section, the following terms shall mean:

(1) "Keg", any container capable of holding four gallons or more of beer, wine, or intoxicating liquor and which is designed to dispense beer, wine, or intoxicating liquor directly from the container for purposes of consumption. Any nonreturnable container with a capacity of less than six gallons shall not be considered a keg under this section;

(2) "Supervisor of alcohol and tobacco control", the person appointed pursuant to section 311.610.

2. Each keg sold at retail for off-premise consumption shall be labeled with a numbered identification tag. The division of alcohol and tobacco control may prescribe the numbered identification tags to be used for this purpose. The recyclable numbered identification tag shall be affixed to the handle on the top chime of the keg. The recyclable numbered identification tag shall be supplied by the division of alcohol and tobacco control without fee and securely affixed to the keg by the licensee making the sale.

3. Each retail licensee shall require each keg purchaser to present valid identification and a minimum deposit of fifty dollars per keg at the time of purchase. On the identification form provided by the division of alcohol and tobacco control the licensee shall record for each keg sale the date of sale, the size of keg, keg tag identification number, the amount of container deposit, the name, address, and date of birth of the purchaser, and the form of identification presented by such purchaser. The purchaser shall sign a statement at the time of purchase attesting to the accuracy of the purchaser's name and address and acknowledging that misuse of the keg or its contents may result in civil liability, criminal prosecution, or both. The licensee shall retain the identification form for a minimum of three months following the sale of the keg.

KEG REGISTRATION CONTINUED ON NEXT PAGE

4. The licensee shall not refund a deposit for a keg that is returned without the numbered identification tag intact and legible. The licensee shall record the date of return of the keg and the condition of the numbered identification tag on the identification form required pursuant to subsection 3 of this section. The licensee may retain any deposit not refunded for this reason. Upon the return of a properly tagged keg from a consumer, the licensee shall remove the tag from the keg and retain such tag with the identification form as required pursuant to subsection 3 of this section.

5. The supervisor shall promulgate rules and regulations for the administration of this section and shall design all necessary forms. No rule, regulation, or portion of a rule or regulation promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

6. The provisions of this section shall become effective on July 1, 2004.

7. This section shall fully preempt and supersede any ordinances, rules, or regulations made by any city, county, or other political subdivision of the state of Missouri which regulate the selling, labeling, or registering of kegs. This section shall not impose any new or additional civil or criminal liability upon the retail licensee.
(L. 2003 S.B. 298 § 1, A.L. 2005 S.B. 262)

FAILURE TO BE A CLOSED PLACE

311.290. Time fixed for opening and closing premises--closed place defined—penalty.

No person having a license issued pursuant to this chapter, nor any employee of such person, shall sell, give away, or permit the consumption of any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday, upon or about his or her premises. If the person has a license to sell intoxicating liquor by the drink, his premises shall be and remain a closed place as defined in this section between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs or hotels, this section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and where such licenses are held by restaurants whose business is conducted in one room only and substantial quantities of food and merchandise other than intoxicating liquors are dispensed, then the licensee shall keep securely locked during the hours and on the days specified in this section all refrigerators, cabinets, cases, boxes, and taps from which intoxicating liquor is dispensed. A **"closed place"** is defined to mean a place where all doors are locked and where no patrons are in the place or about the premises. Any person violating any provision of this section shall be deemed guilty of a class A misdemeanor. Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor during any of the hours or on any of the days specified in this section by a wholesaler licensed under the provisions of section 311.180 to a person licensed to sell the intoxicating liquor at retail.

(RSMo 1939 § 4891, A.L. 1941 p. 412, A.L. 1951 p. 16, A.L. 1957 p. 27, A.L. 1967 p. 424, A.L. 1979 S.B. 192, A.L. 1981 S.B. 128, A.L. 1987 S.B. 150, A.L. 2003 S.B. 298) (1954) Where customer placed groceries and illegally purchased whiskey in his car which was parked on driveway of grocery store, a search of his car cannot be objected to by store owner on prosecution for illegal sale of liquor. *State v. Egan* (A.), 272 S.W.2d 719. (1968) The opening and closing hours of liquor establishments under this section are fixed according to the system or method generally used by the people of Missouri, its business and commerce, its public agencies, and its political subdivisions, at the time when the method of computation or the meaning of the statute is brought into question. *Playboy Club, Inc. v. Myers* (Mo.), 431 S.W.2d 221.

CLOSED PLACE CONTINUED ON NEXT PAGE

Elements

Steps to Prove Elements

- | | |
|---|--|
| 1. That a licensee, or employee of the licensee | <ul style="list-style-type: none">a. Review records to establish type of licenseb. Secure admission of licenseec. Secure admission of employeed. Secure admission of witnesses |
| 2. Fails to maintain a closed place | <ul style="list-style-type: none">a. Officer's observation al(s)b. Secure statement of patron(s)c. Seize drink as evidence, if availabled. Establish that doors to premises are opene. Submit for chemical analysisf. If sealed, check label for statement of alcoholic content |
| 3. Between hours of 1:30 a.m. and 6:00 a.m. of the same day | <ul style="list-style-type: none">a. Check time with telephone company dispatcherb. Check time as shown on premisesc. Question licensee or employee as to knowledge of time |

Note that the state provision banning sale of liquor on election days has been repealed; therefore, all licensees may conduct business as normal, regardless of the type of election (national, state, or local). Officer should check any municipal ordinances regarding sale on Election Day.

CLOSED PLACE CONTINUED ON NEXT PAGE

General Investigative Techniques for Closed Place Violations

Initial Signs

While on routine patrol, a good indication that an establishment has failed to close by the legal time would be a large number of cars on the parking lot, as well as lights on inside the bar.

Steps to Verify

In order to achieve a successful prosecution, there are a number of elements required to establish that a licensee has failed to maintain a closed premise. Initially, it is recommended that you wait at least 15 minutes past closing time before attempting to make a case. This will eliminate any argument over whose watch /clock is accurate.

Once you have a decision to proceed, you should request the assistance of a back up unit. Upon arrival of the back-up unit, you should both attempt to observe the individuals inside consuming drinks.

At this time, one officer should attempt to gain entry while the other officer continues his surveillance of the interior of the premise through the window. Often times the licensee will fail to lock the front door, thus allowing you easy entry. If the front door is locked, it is a good idea, to try gaining entry through the back door. In the event both doors are locked, it will be necessary for you to identify yourself and request admittance.

It is extremely important that the back-up officer be observing the activity inside the establishment at this time, to determine if evidence is being destroyed or individuals are being hidden.

Once inside the establishment the officers should initially note the time on the bar clock in order to establish that the licensee was aware that it was past the legal closing time.

CLOSED PLACE CONTINUED ON NEXT PAGE

Next the officer should check the glasses and bottles which remain on the bar to determine if they are fresh drinks which are cold to the touch or if they are left over from customers who left before closing time.

It is at this point that the back-up officer can provide assistance in locating glassware and bottles from which evidence was dumped or where it might have been hidden. Check to see if the bar stock is properly secured and if the tappers are locked.

All physical evidence remaining should be seized, properly packaged and sent to the laboratory for analysis. If all of the evidence was destroyed prior to the officers gaining entry, they should then approach the beer taps and draw a glass of beer to show they had as much access to the beer as anyone in the establishment. Once again, this beer should be packaged as evidence and sent to the laboratory for analysis.

Finally, the officer should separate all the individuals present, identify them and determine if they are employees or patrons. If the owner claims that they are all employees, you should ask to see their time cards or payroll records in order to verify their claims.

SALE WITHOUT A LICENSE

311.550. Additional revenue charges--fines and penalties.

6. Any person who shall sell in this state any intoxicating liquor without first having procured a license from the supervisor of liquor control authorizing him to sell such intoxicating liquor is guilty of a felony and upon conviction shall be punished by imprisonment by the state department of corrections for a term of not less than two years nor more than five years, or by imprisonment in the county jail for a term of not less than three months nor more than one year, or by a fine of not less than one hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment.

(RSMo 1939 § 4900, A.L. 1945 p. 1043, A.L. 1961 p. 43, A.L. 1969 4th Ex. Sess. S.B. 2, A.L. 1994 S.B. 477, et al.)

UNLICENSED EVENTS / LICENSE REQUIRED /
PUBLIC NUISANCE

311.480. Eating places, drinking of intoxicating and nonintoxicating liquor on premises, license required, when, hours--regulations --penalties--exceptions. (UNLICENSED PARTIES)

1. It shall be unlawful for any person operating any premises where food, beverages or entertainment are sold or provided for compensation, who does not possess a license for the sale of intoxicating liquor or nonintoxicating beer, to permit the drinking or consumption of intoxicating liquor or nonintoxicating beer in the premises, without having a license as in this section provided.

4. Any premises operated in violation of the provisions of this section, or where intoxicating liquor or nonintoxicating beer is consumed in violation of this section, is hereby declared to be a public and common nuisance, and it shall be the duty of the supervisor of alcohol and tobacco control and of the prosecuting or circuit attorney of the city of St. Louis, and the prosecuting attorney of the county in which the premises are located, to enjoin such nuisance.

5. Any person operating any premises, or any employee, agent, representative, partner, or associate of such person, who shall knowingly violate any of the provisions of this section, or any of the laws or regulations herein made applicable to the conduct of such premises, is guilty of a class A misdemeanor

UNLICENSED / NUISANCE CONTINUED ON NEXT PAGE

Elements	Steps to Prove Elements
1. Identity of persons(s) committing offense	<ul style="list-style-type: none"> a. Officer(s) observation b. Secure identification by witness c. Determine that offender is not a licensee
2. The sale	<ul style="list-style-type: none"> a. Observation of officers b. Make undercover buy or investigation c. Secure statement of witnesses d. Secure admission of offender e. Secure statement by participants
3. That intoxicating liquor or nonintoxicating beer was involved in the sale	<ul style="list-style-type: none"> a. Seize drink as evidence b. Determine was ordered (by observation, statement, Admission) c. Determine was served (by observation, statement admission) d. Submit to chemical analysis e. If sealed, check label for alcoholic content
4. That there was no license	<ul style="list-style-type: none"> a. Secure assistance from local district office of Division of Alcohol and Tobacco Control

ORIGINAL PACKAGE/OPEN CONTAINER

NO “TO GO CUPS” (Sale in less than the Original Package)

311.200 (2) Original Package.-

2. For a permit authorizing the sale of malt liquor containing alcohol in excess of three and two-tenths percent by weight and not in excess of five percent by weight by grocers and other merchants and dealers in the original package direct to consumers but not for resale, a fee of fifty dollars per year payable to the director of the department of revenue shall be required. The phrase "original package" shall be construed and held to refer to any package containing three or more standard bottles of beer. This license shall also permit the holders thereof to sell nonintoxicating beer in the original package direct to consumers, but not for resale. Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday

(6) Original package refers to any package containing three (3) or more standard bottles or cans of malt liquor or nonintoxicating beer, to fifty (50) milliliters (1.7 ounces) or more of spirituous liquors and one hundred (100) milliliters (3.4 ounces) or more of vinous liquors in the manufacturer's original container. A standard bottle is any bottle or can containing twelve (12) ounces or less of malt liquor or nonintoxicating beer.

Elements

1. That a licensee or employee of the licensee

Steps to Prove Elements

- a. Verify employment or ownership through records or admission of individual as to employment or ownership

“TO GO CUPS” CONTINUED ON NEXT PAGE

2. Knowingly allowed a patron to leave the premise with an open container or less than the original package
 - a. Officer's observation
 - b. That employee either assisted or observed patron exit the establishment with less than the original package or an open container of alcohol
 - c. Secure statement of licensee or employee
 - d. Secure statement of licensee or employee as to participation or observation
 - e. Seize evidence
 - f. Submit to lab for chemical analysis.

MISSOURI'S "ABUSE AND LOSE" LAW

Abuse and Lose

577.500. Suspension or revocation of driving privileges, persons under twenty-one years of age--violation of certain laws--surrender of licenses--court to forward to director of revenue--period of suspension.

1. A court of competent jurisdiction shall, upon a plea of guilty, conviction or finding of guilt, or, if the court is a juvenile court, upon a finding of fact that the offense was committed by a juvenile, enter an order suspending or revoking the driving privileges of any person determined to have committed one of the following offenses and who, at the time said offense was committed, was under twenty-one years of age:

(1) Any alcohol-related traffic offense in violation of state law or a county or, beginning July 1, 1992, municipal ordinance, where the defendant was represented by or waived the right to an attorney in writing;

(2) Any offense in violation of state law or, beginning July 1, 1992, a county or municipal ordinance, where the defendant was represented by or waived the right to an attorney in writing, involving the possession or use of alcohol, committed while operating a motor vehicle;

(3) Any offense involving the possession or use of a controlled substance as defined in chapter 195, RSMo, in violation of the state law or, beginning July 1, 1992, a county or municipal ordinance, where the defendant was represented by or waived the right to an attorney in writing;

(4) Any offense involving the alteration, modification or misrepresentation of a license to operate a motor vehicle in violation of section 311.328, RSMo;

"ABUSE AND LOSE" CONTINUED ON NEXT PAGE

(5) Any offense in violation of state law or, beginning July 1, 1992, a county or municipal ordinance, where the defendant was represented by or waived the right to an attorney in writing, involving the possession or use of alcohol for a second time; except that a determination of guilt or its equivalent shall have been made for the first offense and both offenses shall have been committed by the person when the person was under eighteen years of age.

2. A court of competent jurisdiction shall, upon a plea of guilty or nolo contendere, conviction or finding of guilt, or, if the court is a juvenile court, upon a finding of fact that the offense was committed by a juvenile, enter an order suspending or revoking the driving privileges of any person determined to have committed a crime or violation of section 311.325, RSMo, and who, at the time said crime or violation was committed, was more than fifteen years of age and under twenty-one years of age.

3. The court shall require the surrender to it of any license to operate a motor vehicle, temporary instruction permit, intermediate driver's license or any other driving privilege then held by any person against whom a court has entered an order suspending or revoking driving privileges under subsections 1 and 2 of this section.

4. The court, if other than a juvenile court, shall forward to the director of revenue the order of suspension or revocation of driving privileges and any licenses, temporary instruction permits, intermediate driver's licenses, or any other driving privilege acquired under subsection 3 of this section.

“ABUSE AND LOSE” CONTINUED ON NEXT PAGE

5. (1) The court, if a juvenile court, shall forward to the director of revenue the order of suspension or revocation of driving privileges and any licenses, temporary instruction permits, intermediate driver's licenses, or any other driving privilege acquired under subsection 3 of this section for any person sixteen years of age or older, the provision of chapter 211, RSMo, to the contrary notwithstanding.

(2) The court, if a juvenile court, shall hold the order of suspension or revocation of driving privileges for any person less than sixteen years of age until thirty days before the person's sixteenth birthday, at which time the juvenile court shall forward to the director of revenue the order of suspension or revocation of driving privileges, the provision of chapter 211, RSMo, to the contrary notwithstanding.

6. The period of suspension for a first offense under subsection 1 of this section shall be ninety days. Any second or subsequent offense under subsection 1 of this section shall result in revocation of the offender's driving privileges for one year. The period of suspension for a first offense under subsection 2 of this section shall be thirty days. The period of suspension for a second offense under subsection 2 of this section shall be ninety days. Any third or subsequent offense under subsection 2 of this section shall result in revocation of the offender's driving privileges for one year.

(L. 1987 S.B. 230 § 1, A.L. 1991 S.B. 125 & 341, A.L. 2005 H.B. 353 merged with S.B. 37, et al. merged with S.B. 402)

577.505. Revocation of driving privileges, persons over twenty-one years of age --possession or use of drug in motor vehicle--surrender of licenses --court shall forward order to department of revenue.

A court of competent jurisdiction shall enter an order revoking the driving privileges of any person determined to have violated any state, county, or municipal law involving the possession or use of a controlled substance, as defined in chapter 195, RSMo, while operating a motor vehicle and who, at the time said offense was

“ABUSE AND LOSE” CONTINUED ON NEXT PAGE

committed, was twenty-one years of age or older when the person pleads guilty, or is convicted or found guilty of such offense by the court. The court shall require the surrender to it of all operator's and chauffeur's licenses then held by such person. The court shall forward to the director of revenue the order of revocation of driving privileges and any licenses surrendered.

(L. 1987 S.B. 230 § 2) Effective 12-1-87

**577.510. Director of revenue to suspend or revoke license, when--
hardship driving privileges may be granted, procedure--
temporary instruction permits allowed, when.**

1. Upon receipt of a court order suspending or revoking the driving privileges of a person pursuant to sections 577.500 and 577.505, the director of revenue shall suspend the driving privileges for ninety days or revoke the driving privileges of such person for a period of one year, provided however, that in the case of a person who at the time of the offense was less than sixteen years of age, the period of suspension or revocation shall commence on that person's sixteenth birthday. The provisions of chapter 302, RSMo, to the contrary notwithstanding, the suspension or revocation shall be imposed without further hearing. Any person whose driving privileges have been suspended or revoked pursuant to sections 577.500 and 577.505 may petition the circuit court for a hardship driving privilege and said application shall be determined and administered in the same manner as allowed in section 302.309, RSMo.

2. The director of revenue shall permit the issuance of a temporary instruction permit in the same manner as allowed in subsection 2 of section 302.130, RSMo, to persons fifteen years of age and under seventeen years of age denied driving privileges by court order pursuant to section 577.500. This exception only applies to instruction permits that entitle a person to operate a motor vehicle on the highways in the presence of an authorized instructor.

(L. 1987 S.B. 230 § 3, A.L. 1991 S.B. 125 & 341) Effective 6-20-91

“ABUSE AND LOSE” CONTINUED ON NEXT PAGE

577.515. Failure to surrender licenses, certain law enforcement officer may seize.

If a person shall neglect or refuse to surrender all operator's and chauffeur's licenses, as provided for in sections 577.500 and 577.505, the director shall direct the state highway patrol or any peace or police officer to secure possession thereof and return such license or licenses to the director.

577.520. License reinstatement, substance abuse traffic offender program--professional assessment--supplemental fee, disposition, failure to remit, penalty.

1. No person who has had his license suspended or revoked under the provisions of sections 577.500 and 577.505 shall have that license reinstated until he has paid a twenty-dollar reinstatement fee and has successfully completed a substance abuse traffic offender program as defined in section 577.001.

577.525. Completion of substance abuse traffic offender program, persons under twenty-one years of age, required, when, standards by department of mental health. Any court which has jurisdiction over violations of state, county or municipal laws shall enter an order, in addition to other orders authorized by law, requiring the completion of a substance abuse traffic offender program as defined in section 577.001, as a part of the judgment entered in the case, for any person determined to have violated a state, county, or municipal law involving the possession or use of alcohol and who at the time of said offense was under twenty-one years of age when the court, if a juvenile court, finds that the offense was committed by such person or, if a city, county, or state court, when the person pleads guilty, or is found guilty of such offense by the court.

(L. 1987 S.B. 230 § 6, A.L. 1991 S.B. 125 & 341, A.L. 1996 H.B. 1169 & 1271 merged with S.B. 722)

“ABUSE AND LOSE” CONTINUED ON NEXT PAGE

577.525. Completion of substance abuse traffic offender program, persons under twenty-one years of age, required, when, standards by department of mental health.

Any court which has jurisdiction over violations of state, county or municipal laws shall enter an order, in addition to other orders authorized by law, requiring the completion of a substance abuse

traffic offender program as defined in section 577.001, as a part of the judgment entered in the case, for any person determined to have violated a state, county, or municipal law involving the possession or use of alcohol and who at the time of said offense was under twenty-one years of age when the court, if a juvenile court, finds that the offense was committed by such person or, if a city, county, or state court, when the person pleads guilty, or is found guilty of such offense by the court.

(L. 1987 S.B. 230 § 6, A.L. 1991 S.B. 125 & 341, A.L. 1996 H.B. 1169 & 1271 merged with S.B. 722)

577.530. Department of revenue--rules and regulations.

The director of revenue shall have authority to make such rules and regulations as he deems necessary for the administration of sections 577.500 to 577.525. No rule or portion of a rule promulgated under the authority of sections 577.500 to 577.530 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

(L. 1987 S.B. 230 § 7, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

REGULATIONS

Regulations apply to licensed establishments and are administrative/civil only (NOT ARRESTABLE OFFENSES). The Supervisor of ATC may revoke, suspend, warn and/or fine establishments in violation of a regulation.

CONSUMPTION BY MINOR (Reg. 70-2.140 (13))

No licensee shall permit anyone under the age of twenty-one (21) years of age to consume intoxicating liquor upon or about his/her licensed premises.

IMPROPER ACTS (FIGHTS OR ACTS OF VIOLENCE) / FAILURE TO PREVENT OR SUPPRESS

(Reg. 70-2.130 (13) (A))

At no time, under any circumstances, shall any licensee or his/her employees immediately fail to prevent or suppress any violent quarrel, disorder, brawl, fight or other improper or unlawful conduct of any person upon the licensed premises, nor shall any licensee or his/her employees allow any indecent, profane or obscene language, song, entertainment, literature or advertising material upon the licensed premises.

IMPROPER ACTS CONTINUED ON NEXT PAGE

**IMPROPER ACTS / FAILURE TO NOTIFY LAW
ENFORCEMENT / FAILURE TO COOPERATE**

(Reg. 70-2.130 (13) (B))

In the event that a licensee or his/her employee knows or should have known, that an illegal or violent act has been committed on or about the licensed premises, they immediately shall report the occurrence to law enforcement authorities and shall cooperate with law enforcement authorities and agents of the Division of Liquor Control during the course of any investigation into an occurrence.

CONTROLLED SUBSTANCES (Reg. 70-2.140 (15))

No licensee or employee shall possess, store, sell or offer for sale, give away or otherwise dispose of upon or about the licensed premises or permit any person upon or about the licensed premises to possess, store, sell or offer for sale, give away or otherwise dispose of any controlled substance as defined in Chapter 195, RSMo.

LEWDNESS (Reg. 70-2.130 (14))

No retail licensee or his/her employee shall permit in or upon his/her licensed premises—

- (A) The performance of acts, or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
- (B) The displaying of any portion of the areola of the female breast;
- (C) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;
- (D) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;
- (E) The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to public view any portion of his/her genitals or anus; and
- (F) The displaying of films, video programs or pictures depicting acts, the live performances of which are prohibited by this regulation or by any other law.

REGS. CONTINUED ON NEXT PAGE

COMPLIANCE CHECKS / CONTROLLED BUYS

(Reg. 70-2.180)

PURPOSE: This rule establishes guidelines for the use of minors in intoxicating liquor or nonintoxicating beer investigations by a state, county, municipal or other local law enforcement authority.

(1) The following shall constitute guidelines for the use of minors in intoxicating liquor or nonintoxicating beer investigations by a state, county, municipal or other local law enforcement authority:

(A) The minor shall be eighteen (18) or nineteen (19) years of age;

(B) The minor shall have a youthful appearance and the minor, if a male, shall not have facial hair or a receding hairline; if a female, shall not wear excessive makeup or excessive jewelry. The minor, male or female, shall not wear headgear that will obstruct a clear view of the face or hairline;

(C) The minor shall carry his or her own identification showing the minor's correct date of birth and shall, upon request, produce such identification to the seller of the intoxicating liquor or nonintoxicating beer at the licensed establishment; and the state, county, municipal or other local law enforcement agency shall search the minor prior to the operation to ensure that the minor is not in possession of any other valid or fictitious identification;

(D) The minor shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age, nor misrepresent anything in order to induce a sale of intoxicating liquor or nonintoxicating beer;

(E) The state, county, municipal or other local law enforcement agency shall make a photocopy of the minor's valid identification showing the minor's correct date of birth;

COMPLIANCE CHECKS CONTINUED ON PAGE

(F) Any attempt by such minor to purchase intoxicating liquor or nonintoxicating beer products shall be videotaped or audiotaped with equipment sufficient to record all statements made by the minor and the seller of the intoxicating liquor or nonintoxicating beer product;

(G) The minor shall not be employed by the state, county, municipal or other local law enforcement agency on an incentive or quota basis;

(H) If a violation occurs, the state, county, municipal or other local law enforcement agency shall, within two (2) hours, make reasonable efforts to confront the seller, if practical, and further, within forty-eight (48) hours, contact or take all reasonable steps to contact the owner or manager of the establishment;

(I) The state, county, municipal or other local law enforcement agency shall maintain records of each visit to an establishment where a minor is used by the state, county, municipal or other local law enforcement agency for a period of at least one (1) year following the incident, regardless of whether a violation occurs at each visit, and such records shall, at a minimum, include the following information:

1. A photograph of the minor taken immediately prior to the operation;
2. A photocopy of the minor's valid identification, showing the minor's correct date of birth;
3. An Information and Consent document completed by the minor in advance of the operation - see <http://www.atc.dps.mo.gov/> for information and forms

(J) The state, county, municipal or other local law enforcement agency must provide pre-recorded currency to the minor, to be used in the operation, and, if a violation occurs, must make all reasonable efforts to retrieve the pre-recorded currency. If a violation occurs, said agency shall further secure and inventory any intoxicating liquor or nonintoxicating beer products purchased; and

COMPLIANCE CHECKS CONTINUED ON PAGE

(K) The state, county, municipal or other local law enforcement agency must, in advance of the operation, train the minor who will be used in the operation, which training shall, at a minimum, include

- i) instruction to enter the designated establishment and to proceed immediately to attempt to purchase intoxicating liquor or nonintoxicating beer products;
- ii) instruction to provide the minor's valid identification upon a request for identification by the seller;
- iii) instruction to answer truthfully all questions about age;
- iv) instruction not to lie to the seller to induce a sale of intoxicating liquor or nonintoxicating beer products;
- v) instruction on the use of pre-recorded currency; and
- vi) instruction on the other matters set out in this regulation.

(2) The supervisor of alcohol and tobacco control shall not participate with any state, county, municipal, or other local law enforcement agency, nor discipline any licensed establishment when any state, county, municipal, or other law enforcement agency chooses not to follow the supervisor's permissive standards.